



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Alberte, R. et al

Serial No: 09/405,269

Filed: 23 September 1999

For: *Safe and Effective Biofilm Inhibitory Compounds and Health-Related Uses Thereof*

Examiner: Yamnitzky, M

Art Unit: 1774

Attorney Document No. PHA-004.01

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Commissioner for Patents
Washington, DC 20231

TC 1700

Certificate of Mailing

I hereby certify that the instant "Response to Restriction Requirement" is being deposited on the date set forth below with the U.S. Postal Service as First Class Mail in a postage-prepaid envelope addressed to: Commissioner for Patents, Washington, DC 20231.

5/10/01 By: DK
Date of Signature and Mail Deposit **Robert King**

Response to Restriction Requirement

Dear Examiner Yamnitzky:

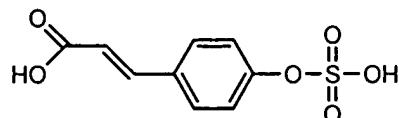
In response to the outstanding Restriction Requirement in the above-identified application, mailed March 14, 2001, the Applicants make herein the elections requested by the Examiner. Applicants also file herewith a substitute specification under 37 CFR 1.121 as requested by the Examiner. The substitute specification contains claims renumbered as directed by the Examiner and is formatted with margins as required by 37 CFR 1.52. The substitute specification introduces no new matter.

Applicants respectfully elect Group I, claims 1-74 inclusive. Further, Applicants elect the Species wherein X represents -OH; Y represents O; and Z represents optionally substituted aryl.

The Applicants further elect the Species wherein the compound of general structure 1 is applied to the surface of a medical device.

The claims readable on this election are 1-26, 29-33, and 37-74.

The Applicants identify the compound zosteric acid as the ultimate Species of the compound of general structure 1, consonant with the elected Species and to be used as the starting point for search and examination purposes. The structure of zosteric acid is shown below:



Of course, the elections of Species made herein are made solely for search purposes. The Applicants expressly reserve the right to prosecute species not elected herein in other patent applications claiming the benefit of the filing date of this application. Furthermore, the Applicants understand that upon allowance of a generic claim, they will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim. See 37 CFR 1.141.

The Applicants believe that all fees due in connection with the filing of this Response are included herewith. However, the Commissioner is hereby authorized to charge or credit to our Deposit Account, No. 06-1448, any additional fees due or overpayment thereof, respectively, in connection with the filing of this Response.

Respectfully submitted,
Foley, Hoag & Eliot LLP

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